



2011 ETHICS REFERENCE

FOR STATE EMPLOYEES

SUBJECT TO THE AUTHORITY OF THE OFFICE OF EXECUTIVE INSPECTOR GENERAL
FOR THE AGENCIES OF THE ILLINOIS GOVERNOR

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Introduction/General Principles

Employees of the State of Illinois are subject to various laws, rules, and policies, some of which uniquely apply to those who work for the state. Certain of these laws, rules, and policies, including the State Officials and Employees Ethics Act (5 ILCS 430 et seq.), are intended to ensure that the functions of state government are conducted with fairness, honesty, and integrity. This, in part, is what it means to follow the principles of **ethics**.

The actions and conduct of state employees, appointees, and officials are essential to maintaining the public's trust in state government. Therefore, in addition to acting with honesty and integrity, state employees must use state-provided resources in the most productive and efficient way possible, and generally, only in support of the work of state government. In addition, state employees must avoid placing their personal or financial interests, or those of their family, friends, or associates in conflict with those of the state.

This reference is meant to provide an overview of a select number of ethics-related laws, rules, and policies that apply to many executive branch state employees. It is not meant to be an all-encompassing compilation of each ethics-related law or rule which applies to those employees. When state employees have a question about either the legality or ethics of a matter related to their state employment, they may discuss the matter with the ethics officer for their state agency or seek private legal counsel.

Ethics Officers

By law, each state agency, including state boards, commissions and public universities, is required to designate an ethics officer. Ethics officers:

- act as liaisons between their state agencies and the appropriate Executive Inspector General and the Executive Ethics Commission;
- review employees' statements of economic interests before they are filed with the Secretary of State (these statements will be discussed later in this reference); and
- provide guidance to state employees in the interpretation and implementation of the State Officials and Employees Ethics Act.

A list of ethics officers for state agencies and boards under the jurisdiction of the Office of Executive Inspector General for the Agencies of the Illinois Governor may be found via the Internet at: <http://www.inspectorgeneral.illinois.gov>.

Executive Ethics Commission (EEC)

Established in 2004, the Executive Ethics Commission, in conjunction with the Executive Inspectors General and the Attorney General, is responsible for the oversight of, compliance, implementation, and enforcement of the State Officials and Employees Ethics Act. The commission consists of nine commissioners, appointed on a bipartisan basis, and it exercises jurisdiction over all officers and employees of state agencies under the six executive branch constitutional officers of the state, as well as the nine state public universities. The commission

also promulgates rules governing investigations of the Executive Inspectors General and holds administrative hearings related to alleged violations of the Ethics Act. For further information about the Executive Ethics Commission, visit its Web site at: <http://www2.illinois.gov/eec>.

Office of Executive Inspector General (OEIG)

Established in 2003, the OEIG is an independent state agency whose primary function is to investigate fraud, abuse, and violations of laws, rules, and policies in state government. The OEIG investigates allegations of misconduct by the employees, appointees, and elected officials under its jurisdiction.

The OEIG's jurisdiction includes the state public universities, the Office of the Governor, the Office of the Lt. Governor, and all state agencies and departments of the executive branch of state government, except for those agencies under the jurisdiction of other executive branch constitutional officers, specifically the Attorney General, the Comptroller, the Treasurer, and the Secretary of State (other Inspectors General have jurisdiction over the four executive branch constitutional officers not under the OEIG's jurisdiction, and the state legislature).

Additionally, the OEIG has responsibility for investigating misconduct by those doing business with state agencies under the OEIG's jurisdiction.

What's New

As a consequence of recent amendment to the State Officials and Employees Ethics Act, effective July 1, 2011, the OEIG is also responsible to act as Executive Inspector General for the Regional Transportation Authority and its related regional transit boards, including Metra, Pace, and the CTA.

For additional information about the Office of Executive Inspector General for the Agencies of the Illinois Governor, visit its Web site at: <http://www.inspectorgeneral.illinois.gov>.

Ethics Training (Ethics Act, Section 5-10)

Under the Ethics Act, executive branch employees are among those who must, at least annually, complete ethics training under appropriate oversight. Additionally, by law, new employees must complete ethics training within 30 days of their initial employment. Because state employees are defined within the Ethics Act to include, "any appointee," appointees must also complete ethics training. **Elected** commissioners, trustees, directors, or board members of boards of a state agency, including any retirement system or investment board subject to the Illinois Pension Code, are also state employees for purposes of the Ethics Act.

Failure to complete training when directed to do so exposes employees and appointees to disciplinary or other action by their state agencies or boards and/or the appropriate ultimate jurisdictional authority (i.e., the Governor, Lt. Governor or in the case of the state public universities, their boards of trustees). This may include action up to and including termination of employment or withdrawal of appointment. Additionally, the failure to complete ethics training and to submit a signed certification of completion of the training, in accordance with

the training's instructions and the requirements of the Ethics Act, may be found to constitute a violation of the Ethics Act. This could result in possible administrative action by the Executive Ethics Commission, including its levy of a fine of up to \$5,000.

State agencies provide instructions to their employees concerning when and how to participate in ethics training.

What's New

Procurement Communications Reporting (30 ILCS 500/50-39)

Among its goals, the Illinois Procurement Code is intended to ensure that state purchases are made fairly and in the best interests of the state.

Under recent amendment to the Procurement Code, any written or oral communication (e.g., a phone call, email, or letter) received by a state employee that provides or requests material (i.e., important) information or makes a material argument about a procurement matter (such as a request for proposals (RFP)), must be reported to the state's **Procurement Policy Board**.

Material communications might occur in connection with the following procurement matters and, if so, should be reported:

- Establishing or defining a procurement need or method of source selection
- Drafting, reviewing, or preparing specifications, plans, or requirements
- Drafting, reviewing, or preparing any invitations for bid, requests for proposals, requests for information, sole source procurement justifications, emergency procurement justifications, or selection information
- Evaluating bids, responses, or offers
- Publishing notices to the Procurement Bulletins

Communications reports to the Procurement Policy Board must be submitted using the Procurement Communications Reporting System (PCRS) at: <http://pcrs.illinois.gov> within 30 days and must include:

- The date and time of each communication
- The identity of each person from whom each communication was received, the individual or entity represented by that person, and any action requested or recommended by that person
- The identity and job title of the person to whom each communication was made
- The identity and job title of the person providing a response to each communication, if a response is made
- A detailed summary of the points made by each person involved in the communication
- The duration of the communication

- The location(s) of all persons involved in the communication (including their phone numbers, if via telephone)
- Any other pertinent information

When an **oral communication** to a state employee, which is subject to the above-mentioned reporting requirement, **is made by a lobbyist**, all individuals who participate in the oral communication must submit a written report to the state employee which documents the above-listed report elements (i.e., date, time, etc.). These “lobbyist reports” will be included in the report submitted to the Procurement Policy Board and will be available to the public via the Board’s Web site at: <http://ppb.illinois.gov>.

Communications related to procurement matters **not required to be reported** to the Procurement Policy Board include:

- Statements by a person publicly made in a public forum
- Statements regarding matters of procedure and practice, such as the format or number of copies required related to a contract bid
- Statements made by a state employee to other employees of the same agency or to employees of the Executive Ethics Commission

Generally, communications regarding the administration and implementation of an existing contract do not need to be reported to the Procurement Policy Board; however, communications regarding contract change orders or the renewal or extension of a contract must be reported.

Contact your state agency’s ethics officer for additional information concerning these reporting requirements or visit the Procurement Policy Board’s Web site (<http://ppb.illinois.gov>) for additional instructions and information.

Official Misconduct, Bribery, and Solicitation Misconduct (Criminal Code of 1961 (720 ILCS 5/33-3))

Public officers or employees commit misconduct when, in their official capacity, they commit any of the following acts:

- Intentionally or recklessly fail to perform any mandatory duty as required by law
- Knowingly perform an act which they know they are forbidden by law to perform
- With intent to obtain personal advantage for themselves or another, they perform an act in excess of their lawful authority
- Solicit or knowingly accept for the performance of any act a fee or reward which they know is not authorized by law

Public officers or employees convicted of violating any these provisions forfeit their office or employment. In addition, they commit a Class 3 felony.

For Example:

A state employee may be committing official misconduct if he approves a state contract, which he knows he does not have the authority to approve. Also, as an example, a state employee may be committing official misconduct if he uses state property or equipment for unauthorized purposes, such as for his personal use or other non-state business.

Among other circumstances, **bribery** occurs when state employees ask for or accept property or personal advantage, such as, but not limited to, money or free services, in exchange for taking or not taking (or influencing someone else to take or not take) an official act.

For Example:

It is unlawful for state employees to accept something of value, such as a promise of future employment, or travel expenses, in exchange for making official decisions, such as the authorization of state financial aid, approval of a state contract, or issuance of a professional license.

If state employees or officials accept a bribe, they could face criminal charges and if convicted, they could go to jail. It is also a criminal violation of the law if state employees or officials fail to report a bribe to the Illinois State Police.

If state employees have regulatory authority over a person, such as responsibility to investigate, inspect, license, or enforce regulatory measures related to the person's business or activity, and they knowingly ask for or receive political campaign contributions from that person, they have committed **solicitation misconduct**. If convicted of solicitation misconduct, they will lose their state jobs.

Personnel Policies (Ethics Act, Section 5-5)

State employees are required to follow the personnel policies of their state agency, board, or commission. These policies must include elements related to the following:

- Work time requirements
- Documentation of time worked/time sheets
- Documentation for reimbursement for travel on official state business
- Compensation
- Earning and accrual of state benefits for those eligible for benefits

Time Sheets (Ethics Act, Section 5-5)

State employees are required to periodically submit time sheets documenting the time spent each day on official state business to the nearest quarter hour.

Conflicts of Interest

Many state employees have investments, business or personal relationships, second jobs, or even volunteer activities, each of which, has the potential to create a conflict of interest in relationship to their employment with the state.

A conflict of interest occurs when the interests of a state employee are in conflict with the interests of the state. This might occur, for example, when a decision or recommendation that a state employee makes, relative to his or her official position, either affects or is affected by his or her personal interests or those of a family member, friend, or associate.

For Example:

A state employee has a conflict of interest when she participates in a decision to award a contract for state business to a company owned by a business associate. Another example of a conflict of interest occurs when a state employee attempts to influence a regulatory or licensing decision in order to benefit the financial interests of a friend.

Official actions taken by a state employee, such as, but not limited to, the issuance of state financial aid, or approving a license application, or granting a contract, or hiring another state employee, should be in the best interests of the state.

Do What's Right!

Recommended Best Practice

In any instance where a state employee believes that he or she may have a conflict of interest with respect to his or her state employment, it is his or her responsibility to immediately take steps to appropriately disclose the conflict and take action to remedy it. Disclosure should be made in accordance with any applicable policies of the employee's state agency. In the absence of a relevant policy, disclosure should be made to the employee's supervisor and to the state agency's ethics officer. Every immediate effort must be made to either eliminate the conflict or to recuse the employee from any official business related to the conflict.

Any preexisting, potential, or real conflicts of interest should be disclosed to the state by state employees during their hiring/appointment process.

For Example:

A prospective appointee to a state board whose husband is employed by a law firm that provides legal services to the board should disclose that relationship to the appointing authority.

Additionally, it is unethical for state employees to use information made available to them as result of their official duties and which is not generally known to the public, to benefit themselves, their friends, their family, or associates. The use of such insider information to

benefit themselves or another person is unlawful under the Illinois Procurement Code (30 ILCS 500/50-50).

For Example:

It would be inappropriate and illegal for a state employee to provide confidential information about a competitive bidding process for a state contract to a friend whose business is participating in that same bidding process.

Prohibited Political Activities (Ethics Act, Section 5-15)

State employees must not intentionally perform any of the following activities during compensated time other than vacation, personal, or compensatory time off. Additionally, state employees may never engage in any of these activities using state property and resources (such as state-provided telephones, cell phones, photocopiers, or computers):

- Prepare for, organize, or participate in any political meeting, political rally, political demonstration, or other political event

For example, state employees may not send an email to fellow workers during work hours encouraging them to attend a rally for a candidate for elective office. Nor may state employees use a state email account, at any time, to, for example, issue invitations to or advertise a political event to anyone.

- Solicit contributions, including but not limited to purchasing, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event

For example, it is unlawful for state employees to collect contributions to fund a political event by placing a “donations” canister on their desktops at work.

- Solicit, plan the solicitation of, or prepare any document or report regarding any thing of value intended as a campaign contribution
- Plan, conduct, or participate in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes, or for or against any referendum question
- Survey or gather information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization, or for or against any referendum question

For example, it is unlawful for state employees, during their workday, to call potential voters on behalf of a political party to find out whom they might vote for in an upcoming election.

- Assist at the polls on election day on behalf of any political organization, political candidate, or for or against any referendum question
- Solicit votes on behalf of a candidate, political organization, or for or against any referendum question, or help in an effort to get voters to the polls or participate in a vote recount on behalf of a candidate or political organization
- Initiate, prepare, circulate, review, or file a petition on behalf of a candidate for elective office or for or against any referendum question
- Make a contribution on behalf of any candidate for elective office
- Prepare or review responses to candidates' questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes
- Distribute, prepare for distribution, or mail campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question

For example, it is unlawful for state employees to use a state-owned photocopying machine to produce campaign flyers for a school board candidate.

- Campaign for an elective office or for or against any referendum question
- Manage or work on a campaign for elective office or for or against any referendum question

For example, it is unlawful for state employees to use state-provided telephones, even during an uncompensated lunch period or before or after their normal work hours, to work on someone's campaign for elective office.

- Serve as a delegate, alternate, or proxy to a political party convention

Lastly, a supervisor may not compel a state employee to perform political activities at any time.

Do What's Right!

Recommended Best Practice

State employees must not engage in political activities during the hours they work for the state or while using any state resource (such as phones, copiers, letterhead, fax machines, email accounts, etc.). In some instances, state agencies or state boards and commissions may have policies that more severely restrict the political activities of their employees and appointees, including those activities that may take place outside of the time which employees and appointees work for the state. If you are in doubt as to whether an activity or action may be prohibited by law or policy, you may ask your state agency's ethics officer for guidance.

Political Contributions on State Property (Ethics Act, Section 5-35)

As a state employee, you may not intentionally solicit, accept, offer, or make political campaign contributions on state property. These prohibitions also apply to public officials, state employees, candidates for elective office, lobbyists (i.e., persons required to be registered under the Lobbyist Registration Act), or any officers, employees, or agents of any political organization.

State property includes, for example, buildings or portions thereof that are owned or exclusively leased by the state.

Prohibited Offer or Promise (Ethics Act, Section 5-30)

State employees, appointees, or officials may not promise **anything of value** related to state government in consideration for a contribution to a political committee, political party or other entity that has as one of its purposes the financial support of a candidate for elective office.

In the context of a prohibited offer or promise related to a political contribution, **anything of value** includes, but is not limited to:

- positions in state government
- promotions
- salary increases
- other employment benefits, including, but not limited to, modified compensation or benefit terms; compensated time off; or change of title, job duties, or location of office or employment. An employment benefit may also include favorable treatment in determining whether to bring any disciplinary or similar action or favorable treatment during the course of any disciplinary or similar action or other performance review
- board or commission appointments
- favorable treatment in any official or regulatory matter
- the award of any public contract
- action or inaction on any legislative or regulatory matter

For Example:

It is unlawful for a state employee or official to offer an action by a state agency, or to offer someone a state job or to offer an appointment to a state board, or to offer the award of a contract, in exchange for a political campaign contribution.

Ban on Gifts from Prohibited Sources (Ethics Act, Sections 10-10, 10-15 and 10-30)

Generally, state employees must not ask for or accept anything of value (other than the compensation they may receive from the state) in relation to their positions with the state. Asking for or accepting a gift may be illegal under the Ethics Act, or prohibited by a state agency's policies. Furthermore, anything of value, if offered to a state employee or official **in exchange for an official act**, may be considered a bribe.

Prohibited gifts include a variety of things, some of which might not ordinarily be thought of as gifts. The Ethics Act's definition of a gift encompasses most tangible or intangible items having monetary value including but not limited to tickets to sporting or cultural events, hospitality, gratuities, cash, food, drink, reimbursement of travel or lodging expense, and honoraria for speaking engagements. Product samples, software, books, and marketing trinkets such as pens, calculators or tools, are also gifts, which may be prohibited depending on their value and the circumstances under which they are offered.

The Ethics Act specifies that a state employee may not intentionally solicit (ask for) or accept a prohibited gift from certain individuals or entities that are defined by law as a **prohibited source** (as explained below). It also specifies that a state employee may not solicit or accept a gift in violation of any federal or state statute, rule, or regulation. It is also unlawful for immediate family members living with state employees to solicit or accept a prohibited gift from a prohibited source. It is also unlawful for state employees to intentionally solicit or accept a prohibited gift from an agent of, a spouse of, or an immediate family member who is living with a prohibited source.

For Example:

A state employee's son, who lives with the employee, may not ordinarily accept a prohibited gift, such as tickets to a sporting event, from a business that is subject to a regulatory, licensing, or contract decision that the state employee makes as part of his or her state job. Furthermore, a state employee may not ordinarily accept a prohibited gift from the husband or wife of someone whose business is subject to a regulatory, licensing, or contract decision that the state employee makes.

In addition to restrictions placed on gifts by the Ethics Act, state agencies may have their own policies, which in some instances, may be more restrictive than those of the Ethics Act. It is advisable that state employees review their agencies' policies on asking for or accepting gifts.

Do What's Right!

Recommended Best Practice

In general, it is recommended that state employees simply decline anything of value offered to them (other than the compensation they receive from their state agencies) in relation to their state employment, unless it is allowable under the Ethics Act's gift ban, is allowable under their state agencies' policies, and is not offered in exchange for any official act.

The Ethics Act specifies a number of sources from which gifts are generally prohibited.

Prohibited sources include a person or entity that:

- Seeks official action from a state employee or the employee's state agency or other employee directing the employee
- Does business or seeks to do business with a state employee, state agency, or other employee directing the employee

- Conducts activities that are regulated by a state employee, the state agency, or other employee directing the employee
- Has interests that may be substantially affected by the performance or non-performance of the official duties of a state employee
- Is a registered lobbyist under the Lobbyist Registration Act
- Is an agent of, a spouse of, or an immediate family member who is living with a prohibited source

Under the Ethics Act, there are a limited number of specific circumstances under which a state employee may lawfully accept certain items of value from a prohibited source, such as the reimbursement of travel expenses for a meeting to discuss state business when the situation meets specific criteria and when such expenses have been approved in advance by the employee's agency's ethics officer.

The list of exceptions is limited to:

- Opportunities, benefits, and services available to the general public on the same conditions
- Anything for which a state employee pays market value
- A lawful contribution under the Election Code or the Ethics Act or activities associated with a fundraising event in support of a political organization or candidate
- Educational materials and missions (as further defined below *)
- Travel expenses for a meeting to discuss state business (as further defined below **)
- A gift from a relative
- Anything provided on the basis of personal friendship, unless the employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the employee and not because of the personal friendship
- Food or drink that does not exceed \$75 per calendar day
- Food, drink, lodging, and transportation related to outside business or employment activities, if the benefits are customarily provided to others in similar circumstances and are not offered because of the recipient's official position
- Intra-governmental or inter-governmental gifts (e.g. gifts between agency employees or between government employees)
- Bequests, inheritances, and other transfers at death
- Any item or items from any one prohibited source during any calendar year that has a cumulative total value of less than \$100

*Illinois Executive Ethics Commission Rule 1620.700 states that educational materials and missions are those that have a close connection to the recipient's state employment; predominately benefit the public and not the employee; and are approved by the employee's ethics officer in advance of the mission or receipt of the materials. If advance approval is not practicable, the missions and materials shall be reported to the ethics officer as soon as practicable and shall contain a detailed explanation of why approval could not be obtained in advance.

****Illinois Executive Ethics Commission Rule 1620.700 further states that travel expenses for a meeting to discuss state business are those that have a close connection to the recipient's state employment; predominately benefit the public and not the employee; are for travel in a style and manner in character with the conduct of state business; and are approved by the employee's ethics officer in advance of the travel, if practicable. If advance approval is not practicable, the travel shall be reported to the ethics officer as soon as practicable and shall contain a detailed explanation of why approval could not be obtained in advance.**

Under the Ethics Act, if state employees **unintentionally** receive a prohibited gift from a prohibited source, they may correct the situation and not be in violation of the law if they promptly do any of the following:

- Return the gift to the giver
- Give the gift to a not-for-profit organization, a 501(c)(3) organization
- Give an amount of equal value to a not-for-profit organization, 501(c)(3) organization

Be aware that **any gift that is intended to improperly influence a state employee's official conduct must not be accepted.** Such a gift may constitute a bribe under state or federal law. Questions a state employee may have related to gifts solicited or received as a state employee may be referred to a state agency's ethics officer.

Revolving Door (Non-State Employment) Restrictions (Ethics Act, Section 5-45)

The Ethics Act contains restrictions that may, under certain circumstances, affect whether state employees (or one of their family members), may lawfully accept employment, compensation, or fees from another person or entity after state employees end their state employment.

Employment Restrictions and Procedures that Apply to Employees or Appointees Who Participate in Contract, Licensing, or Regulatory Decisions:

Depending on a state employee's job and its responsibilities, a state employee may be required to immediately notify the OEIG if offered non-state employment from certain persons or entities and to seek a determination from the OEIG regarding whether the employee may lawfully accept such an offer, **before its acceptance.**

The Ethics Act requires each executive branch constitutional officer to adopt a policy which identifies those positions under his or her jurisdiction and control, which, by nature of their duties, may have the authority to participate personally and substantially in the award of state contracts, issuance of contract change orders, or in regulatory or licensing decisions. Certain employment restrictions apply to these positions. Furthermore, the appropriate Executive Inspector General has the authority to determine additional state positions under his or her jurisdiction that, due to their involvement in the award of state contracts or in regulatory or licensing decisions, are also subject to these employment restrictions.

State employees in positions that are determined as being subject to these employment restrictions should be provided written notification regarding the restrictions upon hiring, promotion, or transfer into a relevant position; and at the time their duties are changed in such a way as to qualify their positions for the restrictions.

Generally, the revolving door restrictions apply to state employees, or immediate family members living with state employees whose positions allow them the authority to participate in certain regulatory, licensing, or contracting decisions. These general employment restrictions apply during a period of one year immediately after termination of state employees' state employment. During that time period, state employees and their immediate family members may not knowingly accept employment or receive compensation or fees for services from a person or entity if the state employees, during the year immediately preceding termination of state employment:

1. Participated personally and substantially in awarding to the person or entity a contract for services or the issuance of change orders with a cumulative value of \$25,000 or more.
2. Participated personally and substantially in a regulatory or licensing decision that directly applied to the person or entity.

Any employee in a position which has been identified as having this regulatory, licensing, or contracting authority and who is offered non-state employment during state employment or within a period of one year immediately after termination of state employment must, prior to accepting such non-state employment, notify the appropriate Executive Inspector General. Within 10 calendar days after receiving such notification, the Executive Inspector General must make a determination as to whether the state employee is restricted from accepting such employment. An Executive Inspector General's determination may be appealed to the Executive Ethics Commission no later than 10 days after the date of determination.

Additional Employment Restrictions and Procedures that are Independent of an Employee's Duties:

A limited number of state officers, employees, or appointees, in certain positions, are strictly prohibited from knowingly accepting employment or receiving compensation or fees for services from certain individuals or entities during a period of one year after the termination of their state positions – **regardless of whether the state officers, employees, or appointees were involved in regulatory, licensing, or contract decisions.**

These restrictions apply to employment or compensation offers from a person or entity or its parent or subsidiary, that during the year immediately preceding termination of the officer, employee or appointee's state position, was a party to a state contract or contracts with a cumulative value of \$25,000 or more involving the officer, member, or state employee's state agency, or was the subject of a regulatory or licensing decision involving the officer, member, or state employee's state agency. **These more absolute restrictions apply to:**

- **members of the General Assembly or constitutional officers (such as the Governor);**

- members of a commission or board created by the Illinois Constitution;
- persons whose appointment to office is subject to the advice and consent of the Senate;
- the head of a department, commission, board, division, bureau, authority, or other administrative unit within the government of this State;
- chief procurement officers, state purchasing officers, and their designees whose duties are directly related to state procurement; and
- chiefs of staff, deputy chiefs of staff, associate chiefs of staff, assistant chiefs of staff, and deputy governors.

To reiterate, the employment restrictions on these positions apply regardless of whether the officer, employee, or appointee participated personally and substantially in the award of the state contract or contracts or the making of the regulatory or licensing decision in question. Furthermore, **there is no process for seeking an exception to the employment restrictions on these positions.**

The Executive Ethics Commission has the authority to issue a fine to a state employee or appointee in an amount of up to three times the total annual compensation that would have been obtained in violation of the Ethics Act's revolving door employment restrictions.

Additional Appointee Restrictions ([Ethics Act, Section 5-55 and Lobbyist Registration Act, 25 ILCS 170/3.1](#))

Appointees to state boards, commissions, authorities, and task forces have specific additional laws and rules that apply to them.

[Registered Lobbyists \(Lobbyist Registration Act, 25 ILCS 170/3.1\):](#)

A lobbyist is any person who communicates with an official of the executive or legislative branch of state government for the purpose of influencing executive, legislative, or administrative action. Registered lobbyists are those individuals who meet certain criteria under the Lobbyist Registration Act and are therefore, required to register with the Illinois Secretary of State.

A person required to register as a lobbyist may not serve on a state board, commission, authority, or task force authorized or created by state law or by executive order of the Governor if the lobbyist is engaged by nature of a client's business in the same subject area of the board and commission. Exceptions to this prohibition are limited to instances where the lobbyist serves:

- In an elective public office, whether elected or appointed to fill a vacancy
- On an advisory body that makes nonbinding recommendations to an agency of state government, but does not make binding recommendations or determinations or take any other substantive action

Any registered lobbyist who serves on a board, commission, authority, or task force under one of these exceptions must not take part in any decision that may affect one of his or her clients.

Spouses and immediate family members who are living with a person required to register as a lobbyist also may not be appointed to a board, commission, authority, or task force unless they fall under one of the exceptions above.

[Holders of State Contracts \(Ethics Act, Section 5-55\):](#)

A person, his or her spouse, or any immediate family member living with that person, may not serve on a board, commission, authority, or task force if that person meets any of the following criteria:

- The person has more than a 7 ½ percent interest in a state contract
- The person, together with his or her spouse and immediate family members living with them, has more than a 15 percent interest in a state contract

This ban does not apply if one of the following exceptions occurs:

- The contract in question is an employment contract
- The person, the spouse, or the immediate family member is serving in an elective public office
- The person, the spouse, or the immediate family member is serving on an advisory body that makes non-binding recommendations

Any person who serves on a board, commission, authority, or task force under one of these exceptions must not take part in any decision that may affect the contract in question.

Any individual appointed to a board, commission, authority, or task force must disclose all contracts the individual has with the state.

[State Contract-Related Conflicts of Interest \(Governmental Ethics Act \(5 ILCS 420/3A-35\)\):](#)

An appointed member of a board, commission, authority, or task force authorized or created by state law or executive order of the Governor, may not have or acquire a contract or a direct financial interest in a contract with the state that is related to the board, commission, authority, or task force on which he or she sits. This restriction applies during the appointee's term of office and for one year after the conclusion of the appointee's term. This restriction also applies to the appointee's spouse or an immediate family member of the appointee living in the appointee's residence.

[Whistle Blower Protection \(Ethics Act, Article 15\)](#)

State employees may be reluctant to report violations of the law, rules, or regulations out of fear that those affected by their report will do something to harm them or their careers. Such **retaliation is generally against the law.**

An officer, state employee, or state agency may not lawfully take any retaliatory action against a state employee for doing any of the following:

- Disclosing or threatening to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member of the General Assembly, state agency, or other state employee that a state employee reasonably believes is in violation of a law, rule, or regulation
- Providing information or testifying about any violation of a law, rule, or regulation by any executive or legislative branch constitutional officer, member of the General Assembly, state employee, or state agency
- Assisting or participating in a proceeding to enforce the State Officials and Employees Ethics Act

Retaliatory action includes, for example, reprimanding, firing, demoting, transferring or suspending a state employee, changing the terms or conditions of the employee's employment, or denying the employee a promotion.

Whistle blower protections do not however prohibit a state employee from being disciplined for matters unrelated to the above-listed protected activities. For example, a state employee who discloses an unlawful act of another state employee may still be disciplined for failing to complete a required work assignment. Such discipline is allowable if it is demonstrated by clear and convincing evidence that the discipline (in this example, for failing to complete a work assignment) would have been imposed in the absence of the employee's disclosure of the unlawful act.

If a state employee retaliates against another state employee for reporting a violation of law or assisting in an investigation, then the individual taking the retaliatory action would be subject to disciplinary action up to and including discharge by his or her state agency, as well as potential administrative action by the Illinois Executive Ethics Commission for violating the Ethics Act. In addition, the employee subjected to the retaliatory action could file a lawsuit seeking compensation and other remedies as provided by law.

A list of potential remedies, including, but not limited to reinstatement of employment and back pay, may be found in the State Officials and Employees Ethics Act (5 ILCS 430/15-25). The state circuit courts have jurisdiction to hear cases brought under this section of the Ethics Act.

Reporting Violations of Law, Rule, Regulation, or Policy (Administrative Order #6, 2003)

To put an end to misconduct it is important that if you witness misconduct or have evidence of it, you report it to the proper authorities. As a state employee, it is your ethical duty to report violations of laws, rules, or regulations by another state officer, employee, or other relating to state business.

To report a **non-emergency** violation of law, rule, or regulation, you should contact the Office of Executive Inspector General for the Agencies of the Illinois Governor (OEIG) via its toll-free Hotline at 866-814-1113. Questions and/or reports of alleged violations may also be submitted

via the Internet at <http://www.inspectorgeneral.illinois.gov>. For those who require it, the OEIG may also be contacted toll-free via a telecommunications device for the disabled (TTD) at 888-261-2734.

Alleged violations may be reported to the OEIG anonymously. However, in many instances, investigations may be conducted more efficiently if investigators are provided the identity of the person who reported the matter so, if necessary, investigators may ask follow-up questions to obtain additional information relating to the alleged violation.

In the event of an emergency situation requiring an immediate police response, one should contact the Illinois State Police or the county, municipal, or campus police agency that can provide the fastest response (for example, by dialing “911”). Examples of emergency situations include those that involve the illegal use or possession of a weapon, bodily injury or threat of bodily injury, or criminal sexual assault.

If anyone attempts to improperly influence your official actions as a state employee, particularly if there is an attempt by anyone to have you or another state employee act or fail to act in a manner that is unlawful or violates your state agency’s policies, it is your responsibility to immediately report this matter to the appropriate authorities.

In certain instances, a state employee’s failure to report a violation is itself a violation of the law, as is the case where a state employee fails to report a bribe (720 ILCS 5/33-2).

Rights and Responsibilities During Investigations (Ethics Act, Section 20-70, EEC rules, 2 Ill. Admin. Code Section 1620.300(c)(8) & Administrative Order #6, 2003)

State employees who become involved in an investigation conducted by the Office of Executive Inspector General or the Illinois Attorney General have a duty to cooperate. This means, among other things, they must participate in interviews as requested, tell the truth, not withhold information, and respect the confidentiality of any investigation.

By law, every state agency, officer, and employee must cooperate with and provide assistance to the Executive Inspector General and her or his staff in the performance of any investigation. In particular, each state agency must, to the extent permitted by applicable laws and the rules governing the conduct of Executive Inspectors General, make its premises, equipment, personnel, books, records, and papers readily available to the Executive Inspector General. Investigators may enter the offices or grounds of any state agency at any time, without prior announcement, if necessary to the successful completion of an investigation.

In the course of an investigation, investigators may question any state officer or employee, and any other person transacting business with a state agency. Investigators may also, to the extent permitted by applicable laws and the rules governing the conduct of Executive Inspectors General, inspect and copy any books, records, or papers in the possession of the state agency, including those made confidential by law. Investigators must take care to

preserve the confidentiality of information contained in responses to questions or books, records, or papers that is made confidential by law.

All OEIG requests for the production of or viewing of documents or physical objects under the control of a state agency must be made in writing. The recipient of such a request, should he or she believe that the release of the subject matter of the request may violate existing rights or protections under state or federal law, has the right to seek a determination from the Executive Ethics Commissions (EEC) relative to such rights or protections. The EEC's rules governing this process may be found at its Web site at <http://www2.illinois.gov/eec>.

The Executive Inspector General may compel any employee in a state agency to truthfully answer questions concerning any matter related to the performance of his or her official duties. If so compelled, no statement or other evidence there from may be used against an employee in any subsequent criminal prosecution, other than for perjury or contempt arising from such testimony. The refusal of any employee to answer questions if compelled to do so shall be cause for discipline, up to and including discharge. Failure to cooperate includes, but is not limited to, intentional omissions and knowing false statements.

When instructed by an OEIG investigator, a state employee who participates in an investigative interview should not inappropriately disclose any matter discussed during the interview, or even the existence of the investigation, except for example, when necessary to consult with private legal counsel.

With respect to OEIG investigations, EEC rules (2 Ill. Admin. Code Section 1620.300) provide for rights of employees during investigations, including, among other elements:

- If investigators reasonably believe an employee who is the subject of the investigative interview will likely face discipline, the investigators must notify the employee whether the underlying investigation is criminal or administrative in nature
- If the underlying investigation is **criminal** in nature, the subject interviewee must be presented a form that outlines the interviewee's rights during the interview, including **the right to the presence of an attorney, union representative, or coworker** uninvolved in the investigation
- If the underlying investigation is **administrative** in nature, the subject interviewee must be presented a form that outlines the interviewee's rights during the interview, including **the right to presence of a union representative, or coworker** uninvolved in the investigation

In both criminal and administrative investigations, the interviewee must sign the above-mentioned form, attesting only to the fact that the form was presented to the interviewee and he or she was given the opportunity to read it.

Investigators may not infringe upon a state employee's right to seek advice from his or her agency's ethics officer on the interpretation and implementation of the Act, or to seek advice from private legal counsel.

The full text of the rules governing OEIG investigations may be found at the EEC's Web site: <http://www2.illinois.gov/eec>.

Ex Parte Communications

There are laws which govern how information received by state agencies and their employees in relation to rulemaking and regulatory, quasi-adjudicatory, investment, and licensing procedures must be treated, especially when communications are received by state employees outside of a public forum. These laws are intended to make these procedures fair and to ensure that related communications received by the state and its employees are appropriately disclosed to others who are involved.

There are similar, but different requirements related to ex parte communications that apply to (1) rulemaking under the Administrative Procedures Act, and (2) regulatory, quasi-adjudicatory, investment, and licensing matters under the Ethics Act. In addition, the Executive Ethics Commission has established specific reporting requirements related to ex parte communications. These three sets of requirements are discussed below.

Ex Parte Communications in Rulemaking (Administrative Procedures Act, 5 ILCS 100, Section 5-165):

Under the Illinois Administrative Procedures Act, an ex parte communication is defined as any written or oral communication by any person, during the rulemaking period, that provides or requests information of a material nature or makes a material argument regarding potential action concerning an agency's (or board's) general, emergency, or peremptory rulemaking that is communicated to the head of the agency or an employee of the agency, and is:

- Not made in a public forum
- Not a statement limited to matters of procedure and practice
- Not a statement made by a state employee to fellow employees of the same board or agency

An ex parte communication (i.e., one that is not made in a public forum, not limited to matters of procedure and practice, or not made by one employee to another of the same state agency or board) that is received by any agency or board, its head, or its employee must be immediately reported to the agency's or board's ethics officer. The ethics officer must require that the communication be made a part of the record for the rulemaking proceeding and must promptly file the communication with the Executive Ethics Commission. **These requirements under the Illinois Administrative Procedures Act apply to all state agencies and boards.**

The intent of this section of the Administrative Procedures Act is to ensure that all parties who are interested in **administrative rules** under consideration by a state agency or board are made aware of communication that may occur outside of a public forum between the agency or board and other interested parties.

Ex Parte Communications in Regulatory, Quasi-Adjudicatory, Investment, and Licensing Matters (Ethics Act, Section 5-50):

Requirements that are different from (albeit seemingly similar to) those explained above, apply to ex parte communications involving only the following state agencies:

Executive Ethics Commission
Illinois Commerce Commission
Educational Labor Relations Board
State Board of Elections
Illinois Gaming Board
Health Facilities and Services Review Board
Illinois Workers' Compensation Commission
Illinois Labor Relations Board
Illinois Liquor Control Commission
Pollution Control Board
Property Tax Appeal Board
Illinois Racing Board
Illinois Purchased Care Review Board
State Police Merit Board
Motor Vehicle Review Board
Prisoner Review Board
Civil Service Commission
Personnel Review Board for the Treasurer
Merit Commission for the Secretary of State
Merit Commission for the Office of the Comptroller
Court of Claims
Board of Review of the Dept. of Employment Security
Department of Insurance
Department of Professional Regulation and its licensing boards*
Department of Public Health and its licensing boards
Office of Banks and Real Estate and its licensing boards**
State Employees' Retirement System Board of Trustees
Judges' Retirement System Board of Trustees
General Assembly Retirement System Board of Trustees
Illinois Board of Investment
State Universities Retirement System Board of Trustees
Teachers' Retirement System Board of Trustees

* The Department of Professional Regulation is a division of the Department of Financial and Professional Regulation

** The Office of Banks and Real Estate is a division of the Department of Financial and Professional Regulation

Under the Ethics Act, an ex parte communication is defined as any written or oral communication by any person that imparts or requests information of a material nature or makes a material argument concerning regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by a state agency or board, that is:

- Not made in a public forum

- Not a statement limited to matters of procedure and practice
- Not a statement made by a state employee to fellow employees of the same board or agency

An ex parte communication received by an agency or board, its head or an agency or board employee/appointee from an interested party or its representative, must be promptly made a part of the related official record. "Interested party," means a person or entity whose rights, privileges, or interests are a subject of the matter under consideration by the agency or board.

An ex parte communication received by an agency or board, its head, or an agency or board employee/appointee from other than an interested party or its representative must be reported to the agency's or board's ethics officer. The ethics officer must promptly require the communication to become a part of the record and will promptly file the communication with the Executive Ethics Commission.

The intent of this section of the Ethics Act is to ensure that all parties who are interested in certain matters under consideration by the above-listed state agencies are made aware of related communications that may occur outside of a public forum between those state agencies and other interested parties.

[Applicable EEC Rules \(EEC Rules, 2 Ill. Admin. Code Section 1620.820\):](#)

The rules of the Executive Ethics Commission require that any state officer or employee who receives an ex parte communication from a non-interested party as excluded by Section 5-50(b-5) and Section 5-50(d) of the Ethics Act or an ex parte communication from any person that imparts or requests material information or makes a material argument regarding an agency's rulemaking pursuant to Section 5-165 of the Illinois Administrative Procedures Act shall report this communication within seven (7) days to his or her agency's ethics officer. The full text of the EEC's rule may be found at its Web site: <http://www2.eec.illinois.gov/eec>.

If state employees have questions concerning whether or not a communication is subject to these ex parte rules, they may seek the advice of their state agencies' ethics officers.

[Disclosure of Economic \(Financial\) Interests \(Illinois Governmental Ethics Act, 5 ILCS 420 et seq.\)](#)

Some state employees, because of their responsibilities, are required to file an annual statement of economic interests with the Secretary of State's Office (by May 1).

Generally, this requirement applies to compensated employees who:

- Are, or function as, the head of a department, commission, board, division, bureau, authority or other administrative unit within state government, or who exercise similar authority with state government
- Have direct supervisory authority over, or direct responsibility for the formulation, negotiation, issuance or execution of contracts entered into by the state in the amount of \$5,000 or more

- Have authority for the issuance or promulgation of rules and regulations within areas under the authority of the state
- Have authority for the approval of professional licenses
- Have responsibility for the financial inspection of regulated nongovernmental entities
- Adjudicate, arbitrate, or decide any judicial or administrative proceeding, or review the adjudication, arbitration, or decision of any judicial or administrative proceeding within the authority of the state
- Have supervisory responsibility for 20 or more state employees
- Negotiate, assign, authorize, or grant naming rights or sponsorship rights regarding any property or asset of the state, whether real, personal, tangible or intangible
- Have responsibility with respect to the procurement of goods and services

It is the responsibility of the chief administrative officer of each state agency to annually certify to the Secretary of State the names and addresses of those employees who are required to file a statement. If you are subject to the requirement to file a statement of economic interests, on or before April 1 annually, the Secretary of State will notify you of the need to file a statement. This notification typically includes a form for filing the statement. Alternatively, the form may be obtained via the Secretary of State's Web site at:

http://www.cyberdriveillinois.com/publications/pdf_publications/i188.pdf

The information required for disclosure via a statement of economic interests includes, for example, but is not limited to, the following:

- The name and means of ownership that a state employee may have in any entity doing business in the State of Illinois, in which the ownership interest is in excess of \$5,000 (including, for example, real estate or stock, but not including a time deposit in a bank nor any debt instrument)
- The name and address of any professional organization in which the state employee is an officer, director, associate, partner, or proprietor from which the state employee derived income in excess of \$1,200 during the preceding calendar year
- The identity (such as, the address or legal description) of any capital asset such as real estate from which a capital gain of \$5,000 or more was realized during the preceding year
- The identity of any compensated lobbyist with whom the state employee maintains a close economic association
- The name of any entity doing business in the State of Illinois from which income in excess of \$1,200 was derived by the state employee during the preceding calendar year

If state employees have questions about statements of economic interests, they may seek the advice of their state agencies' ethics officers.

Truthful Oral and Written Statements

It is vital to the integrity of state government that all oral and written statements made by state employees, in their official capacities as state employees, are made in what they believe to be

an honest and truthful manner. This requirement applies to all means of communications and applies to documents, including, but not limited to:

- Time sheets
- Employment or appointment applications
- Statements of economic interests
- State board or commission rulings, orders, decisions, findings, etc.
- Letters, emails, and reports

Falsification of official documents or untruthful statements made in the conduct of state business are unethical, may violate state policies or law and may subject a state employee to administrative action up to and including fine and/or termination of state service, and in some instances may result in criminal prosecution.

State Agency Policies

It is important that state employees adhere to those applicable laws, rules, policies, or regulations that are unique to their state agencies. These policies may include for example:

- Specific time reporting or other personnel-related rules, including, but not limited to, requirements for you to avoid being tardy, strict limitations on lunch and break periods, and directives to not misuse or abuse state resources by, for example, using state telephones, computers, vehicles, office supplies, or time for other than state business
- Restrictions concerning your solicitation or acceptance of gifts, which may be more stringent than the general gift ban contained within the Ethics Act
- Prohibitions on certain political activities, which may be more restrictive than those prohibitions contained within the Ethics Act
- Rules governing purchasing procedures
- Hiring practices
- A code of conduct
- Restrictions concerning conflicts of interest

It is important that the business of state agencies is always conducted in accordance with all applicable laws, rules, policies, and regulations. Please be aware that many of these laws and rules, including the Ethics Act, are applicable to state employees even in instances where their employment is temporary, seasonal, intermittent, or performed under a personal services contract.

Penalties

Penalties for violations of ethics-related laws, rules, and policies by state employees are dependent upon the specific circumstances. Penalties may include administrative action up to and including termination of employment or appointment. In addition, the Executive Ethics Commission may levy administrative fines in the case of violations of the Ethics Act. Illegal acts, such as bribery, or official misconduct, may result in referrals to the appropriate authorities for criminal prosecution, which, if substantiated, may result in jail time.

Disciplinary action under the State Officials and Employees Ethics Act against a person subject to the Ethics Act and the Personnel Code is under the jurisdiction of the Executive Ethics Commission. Any hearing to contest disciplinary action against a person subject to the Act pursuant to agreement between the Executive Inspector General and an ultimate jurisdictional authority will be conducted by the Executive Ethics Commission.

Ethics Questions or Concerns

State employees who have questions or concerns about a work-related ethics issue may contact their state agencies' ethics officers. Under the Ethics Act, ethics officers, among their other duties, serve to provide guidance to state employees, including appointees, in the interpretation and implementation of the Ethics Act, which guidance employees may in good faith rely upon.

Examples of the Ethical Obligations of State Employees

The following are examples of actions or situations concerning the various ethical obligations of state employees, appointees, and officials:

1. **Situation:** A state supervisor directs one of her subordinates to use a state computer to produce an agenda for a meeting which the supervisor must attend. The meeting is not related to state business and involves a service organization that the supervisor belongs to apart from her official duties.

Ethical Assessment: It is unethical and/or a violation of law or policy to misappropriate any state resource, such as tools, equipment, software, cell phones, copiers, facsimile machines, or vehicles for personal benefit or any use not specifically allowed under law or policy. This includes directing other state employees to perform non-state work during their state work day or to misuse state resources.

2. **Situation:** A state employee accepts a box of candy offered to her as a thank you from someone who questioned her about services provided by her state agency.

Ethical Assessment: While the value of a box of candy may allow it to be accepted as an exception to the Ethics Act's gift ban, it is inadvisable and possibly a violation of state agency policy to accept any gift when it is offered in relation to an official act.

3. **Situation:** A state employee sends a message via the state's email system to each of his coworkers asking for their donation to a club that his daughter belongs to.

Ethical Assessment: While this may appear to be an incidental or inconsequential use of the state's resources for other than official business, it is not what those resources are intended for. Most use of any state property or resources, such as an email account, computer, copier, fax machine, vehicle, work tool, or telephone for other than state business is restricted, if not prohibited, by state agency policy. If in doubt as to whether

the incidental use of state resources for nonofficial purposes is allowable, please talk to your supervisor or your agency's ethics officer.

4. **Situation:** After a meeting with a state employee, a sales representative for a company wishing to do business with the state offers the state employee a free polo shirt bearing the corporate logo of the sales person's company.

Ethical Assessment: It is wrong for a state employee to take any official action in exchange for something of value. Such action may violate state agency policy and may represent a criminal violation. In this instance, it is not clear that the shirt was offered in an attempt to secure the state's business; however, to avoid the appearance of wrongdoing, it's best for the employee to decline the sales rep's offer.

5. **Situation:** A state employee arrives late to work by 45 minutes because her commuter train was running behind schedule due to a temporary equipment malfunction. Because her supervisor generally forgives such tardiness by authorizing "leave," the employee makes an entry on her time sheet indicating that she arrived at work at her normal starting time.

Ethical Assessment: It is unethical and unlawful to provide false information in a time report used as a basis for compensating a state employee. The Ethics Act requires employees to report the actual time spent each day on official business to the nearest quarter hour. Employees must accurately report the time they work for the state and seek appropriate approval of absences and tardiness in compliance with their state agencies' policies.

6. **Situation:** A state employee uses his office computer to send an email to several of his personal friends encouraging them to vote for a particular political candidate in an upcoming election. The employee types and sends the message after his regular work hours.

Ethical Assessment: The Ethics Act does not prohibit state employees from taking part in political activities in support of candidates for elective office outside of employees' work hours or when they use vacation, personal, or compensatory time off; however, state employees may not do so at any time by misappropriating a state resource, such as by using a state-owned computer or email account.

7. **Situation:** In order to avoid delaying its approval, a state employee authorized the issuance of a state grant in the absence of her supervisor, knowing that she did not have appropriate authority to do so. The employee did so because she was certain her boss would concur in her decision.

Ethical Assessment: It is unethical and unlawful for state employees to perform official acts, which they know they are not authorized to perform. In certain circumstances, doing so may be considered official misconduct and subject to criminal prosecution.

8. **Situation:** A state employee agrees to speed up the approval of a license application in exchange for the applicant's promise to make purchases from a business owned by the state employee's son-in-law.

Ethical Assessment: This arrangement represents a conflict of interest for the state employee. It most likely violates agency or state policy and may be a violation of other laws. It is unethical for a state employee to take any official action for the purpose of obtaining benefit for himself, a friend, family member, or associate. In certain circumstances, an action like this one may constitute a criminal offense.

9. **Situation:** A state employee, who is responsible for making a hiring decision, selects an applicant for a state job despite the fact that the employee does not have all of the qualifications for the job. The state employee makes the hiring decision because her boss advised her that the job applicant has "connections" to an important state official.

Ethical Assessment: Bending or ignoring a state agency's policies, even in those instances where it does not benefit the state employee (in this instance, the employee making the hiring decision) is both unethical and wrong. Depending on the circumstances, the employee may be subject to disciplinary action, and in the instance of hiring misconduct, the offender may be criminally prosecuted.

10. **Situation:** A state employee agrees to recommend the purchase of office equipment from a particular vendor. The state employee does so after accepting a free meal from the vendor's sales representative.

Ethical Assessment: Although there may not have been an explicit exchange of favors, by socializing with someone who is or represents a potential provider of products to the state, the state employee has created the appearance of wrongdoing. This may violate the policies of the employee's state agency, may violate the Ethics Act's gift ban, and could lead to disciplinary action or other administrative action against the employee, depending on the specific circumstances.

11. **Situation:** An individual who recently retired as an employee of a state agency is offered employment by a company that was subject to regulatory decisions made by the retired state employee's former state agency. When employed by the state, the retired state worker did not participate in any way in any regulatory decision involving the company that has offered her employment, but was in a position that was subject to the state's revolving door restrictions because she participated in regulatory decisions concerning others. The retired employee has decided to accept the employment offer, since she never made decisions affecting the company that has offered her a new job.

Ethical Assessment: Although the retired employee did not personally or substantially participate in any regulatory decisions that involved the company which has offered her employment, she must notify the Office of Executive Inspector General and seek its determination, **before** accepting the offer of employment. This requirement applies during the year immediately after termination of her state appointment by virtue of the fact that her position had the authority to participate in regulatory decisions. It is

possible, depending upon the circumstances, the OEIG may determine that she is allowed to accept the job.

12. **Situation:** A state employee uses his state-provided computer to access pornographic images via the Internet, email, and/or by accessing files on a portable storage device (e.g., a jump drive or portable hard drive), which he has connected to his state computer.

Ethical Assessment: Intentionally accessing such material is wrong and in most instances is specifically prohibited by state agency policies. Violation of such policies will result in disciplinary action, up to and including, termination of state employment.

13. **Situation:** A state employee who is assigned a state-owned car stops at a bar after his assigned work hours and consumes several alcoholic beverages, before driving home for the night.

Ethical Assessment: It is probable that by operating a state-owned car under the influence of alcohol he has violated his state agency's policies. Such a violation is subject to disciplinary action, up to and including, termination of state employment. Operating a motor vehicle under the influence of alcohol may also subject an employee to criminal prosecution.